

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 14-4295-cr

Caption [use short title]

Motion for: Motion to be relieved as counsel

United States v. Joseph Jenkins

Set forth below precise, complete statement of relief sought:

Counsel moves to be relieved because Appellant wishes
to raise an ineffective assistance of counsel claim on
appeal.

MOVING PARTY: Joseph JenkinsOPPOSING PARTY: United States of America☐ Plaintiff☐ Defendant☒ Appellant/Petitioner☐ Appellee/RespondentMOVING ATTORNEY: Lisa A. PeeblesOPPOSING ATTORNEY: Brenda K. Sannes

[name of attorney, with firm, address, phone number and e-mail]

Assistant Federal Public DefenderAssistant U.S. Attorney4 Clinton Square, 3rd FloorP.O. Box 7198Syracuse, NY 13202Syracuse, NY 13261-7198315-701-0080; lisa.peebles@fd.org315-448-0672; brenda.sannes@usdoj.govCourt-Judge/Agency appealed from: Hon. Glenn Suddaby, U.S. District Judge for the Northern District of New York

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):

☐ Yes☒ No

(explain): _____

Opposing counsel's position on motion:

☐ Unopposed☐ Opposed☒ Don't Know

Does opposing counsel intend to file a response:

☐ Yes☐ No☒ Don't KnowFOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND
INJUNCTIONS PENDING APPEAL:

Has request for relief been made below?

☐ Yes☐ No

Has this relief been previously sought in this Court?

☐ Yes☐ No

Requested return date and explanation of emergency: _____

Is oral argument on motion requested?

☐ Yes☒ No

(requests for oral argument will not necessarily be granted)

Has argument date of appeal been set?

☐ Yes☒ No

If yes, enter date: _____

Signature of Moving Attorney:

/S/

Date: 11/19/2014

Has service been effected?

☒ Yes☐ No

[Attach proof of service]

ORDER

IT IS HEREBY ORDERED THAT the motion is **GRANTED** **DENIED**.

FOR THE COURT:

CATHERINE O'HAGAN WOLFE, Clerk of Court

Date: _____

By: _____

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

UNITED STATES OF AMERICA,

Appellee,

AFFIDAVIT

-against-

DOCKET NO. 14-4295-cr

JOSEPH JENKINS,

Defendant/Appellant.

STATE OF NEW YORK)
) SS.:
COUNTY OF ONONDAGA)

LISA A. PEEBLES, being duly sworn, deposes and says as follows:

1. I am the Federal Public Defender for the Northern District of New York with an office at the Clinton Exchange, 4 Clinton Square, 3rd Floor, Syracuse, New York 13202.

2. This Affidavit is submitted in support of the Motion of the Office of the Federal Public Defender for the Northern District of New York, seeking to be relieved as counsel for the Defendant-Appellant, JOSEPH JENKINS, on his appeal to the Second Circuit Court of Appeals.

3. On February 6, 2014, Mr. Jenkins was found guilty following a jury trial on Counts One and Two of a two-count indictment, charging him with transportation of child pornography, in violation of 18 U.S.C. § 2252A(a)(1), and possession of child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B).

4. On May 30, 2014, our Office was appointed to represent Mr. Jenkins. Following that appointment, I became very familiar with his case and the jury trial.

5. On November 12, 2014, Mr. Jenkins was sentenced to a combined sentence of 225 months' imprisonment, 25 years of supervised release, a \$40,000 fine, a total of \$12,000 in

restitution, and a \$200 special assessment. At sentencing, Mr. Jenkins sought and was granted approval to appear pro se.

6. On November 18, 2014, Mr. Jenkins filed his own notice of appeal.

7. Mr. Jenkins wishes to raise issues on appeal involving the legal advice provided to him by the undersigned. Obviously, the effectiveness of counsel can only be raised on appeal by a different attorney. Thus, new counsel must be appointed to represent Appellant.

8. In view of the above, counsel respectfully requests that the Office of the Federal Public Defender for the Northern District of New York be relieved as counsel for Mr. Jenkins on his appeal to the Second Circuit Court of Appeals.

WHEREFORE, counsel respectfully requests that the Court grant the relief requested in the instant motion and any further relief as this Court may deem just and proper.

DATED: November 19, 2014

/s/
Lisa A. Tuohey, Esq.
Federal Public Defender
Northern District of New York
4 Clinton Square, 3rd Floor
Syracuse, New York 13202
(315) 701-0080

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Appellee,

-against-

AFFIDAVIT OF SERVICE

DOCKET NO. 14-4295-cr

JOSEPH JENKINS,

Defendant/Appellant.

STATE OF NEW YORK)
COUNTY OF ONONDAGA) SS.:

Valarie Bruni, being duly sworn, deposes and says:

I am not a party to this action, I am over 18 years of age and I reside in the County of Onondaga, State of New York.

That on the 19th day of November, 2014, I served the within **NOTICE OF MOTION and AFFIDAVIT** upon:

Brenda K. Sannes, Esq., AUSA
U.S. Attorneys Office
PO Box 7198
100 S. Clinton St.
Syracuse, NY 13261-7198

the address designated by the United States of America, by hand delivering a true copy thereof to the United States Attorneys Office on the 9th Floor of the Federal Building located at 100 S. Clinton Street, Syracuse, New York,

and

Joseph Jenkins
By U.S. Mail.

/s/
Valarie Bruni